(S7)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 2531 of 2007

PETITIONER(S) : 1. Ravishankar Chaturvedi, Aged about – 35 Years, S/o – Shri Ramnaresh Chaturvedi, Occupation – Electrician Category-5 posted at Bartunga Hill Mine, Chirmiri Area, R/o- New Mines, Quarter, P.O. Line, Post-Godaripara, Distt. Distt.- Korea (C.G.)

2. Nilesh Kumar Mishra, Aged about 42 Years, S/o.- Shri Keshaw Prasad Mishra, Occupation- Electrician Category-5 posted at Doman Hill Colliery, NCC group, Chirmiri Area, R/o- Qr. No. C-Type, Officers Colony, Doman Hill, Distt. Distt. Korea (C.G.)

VERSUS

RESPONDENT(S) : 1. South Eastern Coal Fields Ltd. Through Its Chairman-cum-Managing Director Seepat Road, Bilaspur (C.G.)

2. General Manager, Chirmiri Area, South Eastern Coal Fields Ltd. Distt. – Korea (C.G.)
3. Deputy Chief Personal Manager, Chirmiri Area, South Eastern Coal Fields Ltd. Distt. – Korea (C.G.)
4. Suresh Prasad Tiwari, S/o- Shri Bisember Prasad Tiwari, Aged about – Not known, Posted as Electrician Cat.-Vat at Kurasia OC, Distt.- Korea (C.G.)
5. Padum Charan Nahak, S/o – Shri Shyam Nahak, Aged about – Not Known, Posted as Electrician Cat.-Vat at Chirmiri OC, Distt. – Korea (C.G.)
6. Dilip Kumar Mishra, S/o Shri Mohan Lal Mishra, Aged about – Not known, Posted as Electrician Cat.-Vat at Anjan Hill UG, Distt. – Korea (C.G.)
7. Ram Biswas Verma, S/o- Shri B.L.Verma, Aged about – Not Known, Posted as Electrician Cat.-Vat at N.C.P.H., Distt. – Korea (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

S.B. : HON'BLE JUSTICE SHRI SATISH K. AGNIHOTRI

Present: Shri Vinay Pandey, Advocate for the petitioners.

---

(58)

ORDER

(Passed on 25th day of April, 2007)

1. The petitioners, by this petition, seek a writ of certiorari quashing the impugned promotion order dated 17.11.2005 (Annexure P/3) and also the order dated 05.02.2007 (Annexure P/6) whereby the respondents 4 to 7 have been promoted to the post of Assistant Foreman (Electrical) in T&S grade-'C'.

2. The facts in nutshell are that the petitioner no. 1 and 2 are working as Electrician Category 5, posted at Bartunga Hill Mine, and Electrician Category-5 posted at Doman Hill Colliery, Chirmiri Area, respectively. A Departmental Promotion Committee was constituted and on recommendation, respondent no. 4 to 7 were ptomoted on the post of Assistant Foreman (Electrical) in T&S grade-'C' vide order dated 17.11.2005 (Annexure P/3). The promotion was purely on temporary basis. The said order was thereafter cancelled vide order dated 09.01.2006 (Annexure P/5). Again, vide order dated 05.02.2007, the order passed on 17.11.2005 in favour of the respondents 4 to 7 was restored.

3. Being aggrieved, the petitioner questions the validity of the order dated 17.11.2005 and 05.02.2006 whereunder the private respondents have been promoted to the higher post and further seeks direction to the respondents 1 to 3 to consider their cases for the next promotional post i.e. the Assistant Foreman, with consequential benefits.

4. Learned counsel appearing for the petitioner, Mr. Pandey, submits that in view of the cadre scheme, the petitioners, after having obtained experience of Electrical Fitter for three years, has to be considered for promotion. By not considering the name of the petitioners, the omission on the part of the authorities is irrational, unreasonable and bad in law.

5. Learned counsel appearing for the petitioners further submit that the conduct of the authorities is also arbitrary as the petitioners have

promoted the private respondents 4 to 7 without considering the case of the petitioners, who are equally competent for promotion.

6. This is not a case of the petitioners that they are seniors to the selected candidates and they have been ignored completely from consideration, as such, there is discrimination or arbitrariness. The challenge of the petitioner is only on the ground that since the petitioners have obtained three years Electrical Fitter experience, the petitioners ought to have been considered for promotion to the post of Assistant Foreman.

7. Obtaining experience is not sufficient for considering a person for promotion. Promotion depends on several factors i.e. availability of vacancy, financial constraints of the employer and availability of sufficient number of employees who are senior in the cadre.

8. Further, in the case of **High court of Gujarat and another Vs. Gujarat Kisan Mazdoor Panchayat and Others {(2003) 4 SCC 712}** it was held by the Hon'ble Supreme Court that an employee has legitimate expectation to be promoted to the higher post but nobody has a vested right to be promoted.

9. In view of that, there is no merit in the case as materials of fact have neither been pleaded nor produced before this Court to establish the unreasonableness, or arbitrariness has been perpetrated.

10. As a result, this petition is summarily dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit